

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 2/25/19**

<b>AGENDA ITEM:</b>	
Changes to Council Procedures	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Jon Walker	
<b>DEPARTMENT:</b>	
Legal	
<b>ATTACHMENTS:</b>	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
<b>SUMMARY:</b>	

The Council’s Procedures require periodic review by the Council. Recommended changes include eliminating the meeting on the third Monday as this has been cancelled by resolution for several years, (2) updating language about calling councilmembers at their “residence” for special meetings, (3) adding the council president as a person who can be contacted when a councilmember anticipates being absent, (4) eliminating the requirement that council review the procedures at least every two years (Council will just need to review “periodically”), and (5) some stylistic changes to these sections. The changes to the resolution are on pages 3, 5, and 9.

Parallel changes to the municipal code are included under a separate agenda bill.

<b>RECOMMENDED ACTION:</b> Consider changing the Council’s procedures.
<b>MOTION:</b> I move to adopt Resolution No. _____ making changes to the Council’s procedures.

CITY OF MARYSVILLE  
Marysville, Washington

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, RELATED TO PROCEDURES FOR THE CONDUCT OF BUSINESS AT COUNCIL MEETINGS, AND REPEALING RESOLUTION NO. ~~2342~~2396.**

WHEREAS, RCW 35A.12.120 gives the City Council the power to establish rules of conduct for their meetings; and

WHEREAS, the Council has reviewed its current procedures and determined that they should be changed due to changed circumstances; and

WHEREAS, a comprehensive procedure for Council Meetings will provide the most expedient means of conducting Council Meetings; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE AS FOLLOWS.

The following shall be the rules of conduct for all regular and special meetings of the Marysville City Council.

- I) **General:** These rules constitute the official rules for the conduct of business by Marysville City Council. For all points of order which are not covered by these rules, the chair of the meeting shall decide unless the majority of the Council disagrees, in which case the Council shall be guided by *Robert's Rules of Order Newly Revised*.
  - A) **Censure.** Councilmembers must deport themselves in a manner that protects the institutional integrity of the Marysville City Council, its proceedings, and its reputation and instills public confidence in the Council's decision making process.
    - 1) Any City Councilmember may bring a motion for a censure hearing if he or she has evidence that forms a reasonable basis to believe that another Councilmember has acted in a manner that demonstrates contempt for the institution of the City Council or discredits the City Council. The motion must cite specific facts forming the basis for the belief and may be in writing. The Mayor shall not vote on a motion for a censure hearing.
    - 2) If such motion receives a second and is approved by a majority of Councilmembers present, a hearing will be held at the next regular Council meeting or at such other regular or special Council meeting as the Council decides. The accused member shall be afforded sufficient time to defend against the accusation.

3) The hearing will be held in executive session unless the accused Councilmember requests that the hearing be public. The Council shall determine the rules to govern the hearing, but will provide the accused Councilmember the right to present and rebut evidence. At the conclusion of the hearing the Council will reconvene in open session.

4) If the evidence presented at the hearing showed that the Councilmember acted in a manner that demonstrated contempt for the City Council or brought discredit on the City, any Councilmember may move that a resolution of censure be prepared. At least five Councilmembers must vote in favor of the motion to prepare a resolution of censure or the motion fails. Alternatively, if the evidence showed that the Councilmember did not act in a manner deserving of censure, any Councilmember may move to exonerate the accused Councilmember following the hearing. A motion to exonerate may be approved by a majority of Councilmembers present. The Mayor shall not vote on a motion to prepare a resolution of censure or a motion to exonerate.

5) If the Council votes to prepare a resolution of censure, such a resolution will be prepared reciting the facts that support the censure of the Councilmember. The accused Councilmember will be directed to appear at a future Council meeting at which meeting the resolution will be considered. At least five Councilmembers must vote in favor of a resolution of censure or the resolution fails. If the resolution is approved, it shall be read publicly, and the Councilmember shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the Councilmember appears as required.

## II) **Organization:**

- A) **Swearing in of New Councilmembers.** Newly elected Councilmembers shall be sworn in as provided by state law.
- B) **Mayor Pro Tem.** The Council shall elect a Mayor Pro Tem for a term of two years. In the temporary absence of the Mayor, the Mayor Pro Tem shall perform the duties and responsibilities of the Mayor. In the event the Mayor Pro Tem is unable for any reason to serve the entire term, a new Mayor Pro Tem shall be elected at the next Regular Meeting. If both the Mayor and the Mayor Pro Tem are absent from a meeting, one of the Councilmembers will be appointed by motion to preside over the meeting. The Mayor Pro Tem may also be known and referred to as the "Council President".
- C) **Quorum.** At all Council Meetings, a majority of the Council (four members) shall constitute a quorum for the transaction of business, but a lesser number may recess or adjourn.
- D) **Attendance and Excused Absences.**

- 1) Councilmembers. RCW 35A.12.060 provides that a Councilmember shall forfeit his or her office by failing to attend three consecutive Regular Meetings of the Council without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Mayor; or, if the Mayor is not available, the Council President, or the Chief Administrative Officer, or City Clerk, who shall convey the message to the Mayor. Following roll call, the presiding officer shall inform the Council of the member's absence and state the reason for such absence and shall entertain a motion to excuse.

The Council may give consideration to approval of an extended absence for matters that are beyond the reasonable control of the Councilmember such as for a serious illness, by entertaining a motion to excuse.

- 2) City Clerk. The Clerk or other authorized person shall attend all Council Meetings to serve as clerk and to keep a record of the proceedings. If the Clerk and the Deputy Clerk are absent from any Council Meeting, then the Mayor shall ask the Chief Administrative Officer to appoint a member of the staff to act as Clerk for that meeting.

E) Decorum.

- 1) Right to Eject. While the Council is in session, both the members and the public must preserve order and decorum, and shall neither, by conversation or otherwise, delay or interrupt the meeting or the peace of the Council, nor disrupt any member while speaking or refuse to obey the orders of the Presiding Officer. Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Council, shall be asked to leave by the Presiding Officer and shall be escorted from the Council Chambers.
- 2) Hearings. Whenever the Council is conducting a public hearing on a quasi-judicial matter, such hearings must not only be fair, but must be free from even the appearance of unfairness. Therefore, in their consideration of such matters Council members shall:
  - (a) Avoid any ex parte contact with the individual or property owner whose rights are under consideration;
  - (b) Avoid any public or private statements in advance of a scheduled hearing that would suggest that the Councilmember has decided the issue before the hearing.
- 3) Ex parte Communication. Consistent with RCW 42 .36.060, if any Councilmember has had ex parte communications with opponents or proponents with respect to a quasi-judicial matter, that Council member must disassociate him/herself from the proceedings, unless:
  - (a) That Council member places on the record the substance of any written or oral ex parte communications concerning of the action; and

- (b) The Presiding Officer makes a public announcement providing for an opportunity for any party to rebut the substance of the ex parte communication.
  - 4) Conflict of Interest. Councilmembers that disassociate themselves from participating in a public hearing due to the application of the Appearance of Fairness Doctrine or a conflict of interest, shall leave the Council Chambers.
- F) Voting.
- 1) Method. Unless otherwise provided for by statute, ordinance, or resolution, all votes shall be taken by voice; except that at the request of any Councilmember or the Mayor, a roll call vote shall be taken by the Mayor.
  - 2) Tie Vote. In case of a tie vote on any proposal, the proposal shall be considered lost. This shall not prevent the Mayor from breaking a tie vote as provided by law.
  - 3) General. Each Councilmember shall vote on all questions put to the Council, unless a conflict of interest or an appearance of fairness question under state law is present. Unless a member of the Council states that he or she is abstaining, his or her silence shall be recorded as an affirmative vote.
  - 4) Reconsideration. Any Council member who was absent from a meeting or any Councilmember who voted on the prevailing side of a motion may move for reconsideration of a matter when all Councilmembers are present.
- G) Adjournment. Regular Council meetings (including any executive sessions) shall adjourn at or before 11:00 p.m.; except the time may be extended to a later time certain upon approval of a motion by a Councilmember.

III) **Officers:**

- A) Presiding Officers. The Mayor, or in his or her absence the Mayor Pro Tem, shall be the Presiding Officer of the Council. In the absence of both the Mayor and the Mayor Pro Tem, the Council shall appoint one of the members of the Council to act as a temporary Presiding Officer.
- B) Presiding Officer's Duties. It shall be the duty of the Presiding Officer to:
  - 1) Call the meeting to order.
  - 2) Keep the meeting to its order of business.
  - 3) Control discussion in an orderly manner by:
    - (a) Giving every Councilmember who wishes an opportunity to speak when recognized by the Chair;
    - (b) Permitting citizen comments at the appropriate times; and
    - (c) Requiring all speakers to speak to the question and to observe the rules of order.
  - 4) Decide all questions of order, subject to the provisions of Section I above.

IV) **Committee Appointments:** With the Mayor Pro Tem acting as the lead, the Council shall make appointments of Councilmembers to all standing committees.

V) **Council Meetings:**

A) **Open to Public.** All Council Meetings shall comply with the requirements of the Open Meetings Act (RCW 42.30). All Meetings of the Council shall be open to the public. The City shall comply with the provisions of law regarding notice of public meetings.

B) **Type of Meetings.**

1) **Regular Meetings.** The Council shall hold their ~~Regular regular Meetings-meetings~~ on the first, second, ~~third~~ and fourth Mondays of the month ~~between-commencing at~~ 7:00 p.m. and ~~adjourning not later than~~ 11:00 p.m. ~~unless extended by vote of the Council.~~ Should any Monday fall on a legal holiday, all regular meetings shall be held at the same hour and place on the next working day. ~~Effective January 4, 2012 the third workshop meeting of each month has been suspended until further action by the City Council.~~

2) **Workshops.** The Council shall hold workshop meetings on the first ~~and third~~ Monday of each month commencing at 7:00 p.m. Workshop meetings shall adjourn not later than 9:30 p.m. unless extended by ~~motion of a City Councilmember~~ vote of the Council. Except with the vote of a majority of Council, no public comment shall be received at such workshops. If there is no business for which a workshop is needed, the workshop meeting may be canceled. The Council may also hold workshops which shall be scheduled as a special meeting on such dates that work best with the schedules of the Mayor and a majority of the Council. These meetings will be in formal meetings for the purpose of more prolonged discussion of issues and topics selected by the Council, Mayor or Chief Administrative Officer. Workshops may be held jointly with advisory Boards and Commissions to the Council or with other public entities.

3) **Special Meetings.** Special ~~Meetings-meetings~~ may be called by the Mayor by communication via an e-mail with response required to each member of the Council at least twenty-four hours before the time specified for the proposed meeting. If no response is received, the City will make reasonable attempts to contact the Councilmember by ~~a phone-call-to-the-Councilmember's-residence~~. Proper notice shall also be given to the news media. ~~A Special-special Meetings-meeting shall may~~ also be called by the Mayor upon the written request of any four members of the Council. The notice of ~~such-a Special-special Meetings-meeting~~ shall specify the time and place of the special meeting and the business to be transacted ~~state-the-subjects-to-be-considered~~, and no final action shall be taken on any subject other than those specified in the notice. Where reasonable attempts have been made to give all Councilmembers notice of a special meeting, as

provided above, such meeting may be held so long as a quorum is present ~~for such meeting.~~

C) Executive Sessions.

- 1) General. The Council may hold Executive Sessions from which the public may be excluded, for the purposes set forth in RCW 42.30.110. Before convening an Executive Session, the Presiding Officer or designee shall announce the general purpose of the session, the anticipated time when the session will be concluded and whether action will be taken on any item. Should the session require more time, a public announcement shall be made that the session is being extended.
- 2) Confidentiality. Councilmembers shall keep confidential all written materials and verbal information provided to them during Executive Sessions. Confidentiality also includes information provided to Councilmembers outside of Executive Sessions when the information is considered to be exempt from disclosure by State law or when it is subject to the attorney-client privilege.
- 3) Ex parte Contact. If the Council, after Executive Session, has provided direction to City staff on proposed terms and conditions for City business, all contacts with any other party should be done by the designated City staff representative handling the issue. Councilmembers should obtain the permission of the Mayor prior to discussing the information with anyone other than other Councilmembers, the City Attorney or City staff designated by the Mayor. Any Councilmember having any such contact or discussion needs to make full disclosure to the Mayor and/or Council in a timely manner.

D) Meeting Place. Regular Council Meetings will be held at the City Hall at 1049 State Avenue. Workshops and Special Meetings will usually be held at the same location, but may be held at other appropriate locations, with proper notice.

E) Council Agenda.

- 1) Order of Business. No Legislative item shall be voted upon which is not on the agenda as approved by the Council at the meeting. The order of business for each Regular Meeting shall be ordinarily as follows unless modified by motion of Council:
  - (a) Call to Order
  - (b) Invocation/Pledge of Allegiance
  - (c) Roll Call
  - (d) Committee Report
  - (e) Presentations
  - (f) Audience Participation
  - (g) Approval of Minutes
  - (h) Consent Agenda
  - (i) Review Bids
  - (j) Public Hearings
  - (k) New Business

- (l) Legal
- (m) Mayor's Business
- (n) Staff Business
- (o) Call on Councilmembers
- (p) Adjournment
- (q) Executive Session
- (r) Reconvene
- (s) Adjournment

- 2) Placement of Matters on Agenda by Councilmembers. A Councilmember may propose to place a topic on an upcoming City Council Agenda in the form of a motion. A Councilmember may also fill out a Request Form if he or she wishes to have the subject placed on the Agenda for the making of a motion. The filling out of a Request Form will be used only to let the other Councilmembers know that a motion will be made to place the matter on an upcoming Agenda. If the motion receives a second, then a vote is taken. If the motion passes the Councilmember may then provide to the City Clerk (or designee) whatever information is pertinent to the subject. Such information will be included in the materials for the upcoming meeting. City staff may also provide information that would be useful to the Council in their deliberations. At times it may be necessary where an issue is complex to inform the Council that more time may be needed to prepare staff materials or that there may be some unanticipated costs in producing relevant information to the Council.
- 3) Consent Agenda. Matters shall be placed on the Consent Agenda which: (a) have been previously discussed by the Council, or (b) based on the information delivered to members of the Council by the administration, can be reviewed by a Councilmember without further explanation, or (c) are so routine or technical in nature that passage is likely. The motion to adopt Consent Items shall be non-debatable and have the effect of moving to adopt all items. Prior to entertaining a motion to adopt the Consent Agenda the Mayor shall inquire whether there are any members of the audience who want to comment on any matter which is on the Consent Agenda. Any member of the Council shall have the right to remove any item. Therefore, under the item "Approve the Agenda Contents and Order," the Mayor shall inquire if any Councilmembers wish an item to be withdrawn from the Consent Agenda. If any matter is withdrawn, the Mayor shall place the item following the consent agenda for deliberation and possible action.

VI) **Public Testimony and Comments:**

A) Oral and Written Comments.

- 1) General. The Council shall not take public comments at the Regular Meeting except for testimony given at a Public Hearing; provided that any person may speak under "Citizen Comments on items not on the Agenda" and on items on the agenda for which no public comment is planned for no more than three minutes. The three-minute limit may be extended by consensus of the Mayor and majority of the



Council. If there is an item on the agenda on which a citizen wishes to comment, the citizen should ask during the “Citizen Comments on items not on the Agenda” period if the Council will allow comment on a particular item. The Mayor will decide, with the concurrence of Council, whether comment will be allowed, and if so, it will be taken after the Staff presentation, but before Council action on that item.

- 2) Identification of Speakers. Persons testifying or providing comments shall identify themselves for the record as to name, address, and organization.
- 3) Time Limitations. Individuals will be allowed three (3) uninterrupted minutes to speak. Providing that all individuals are allowed to speak at the hearing, if time permits another three (3) minutes may be allowed for added comment. At the discretion of the Mayor, with the concurrence of Council, additional time for receipt of oral and written testimony may be allowed. The Clerk or Mayor shall be the timekeeper.

In cases where a representative is speaking on behalf of a group of persons who are present at the meeting, at the discretion of the Mayor, giving consideration to the issue at hand and the time available and with the concurrence of Council, part or all of the three minutes that each person in the group would have had to speak may be allocated to the representative of the group.

At a quasi-judicial hearing, the burden of proof generally lies with the applicant or appellant of the action before the Council. During the public testimony portion of the hearing, the applicant and the applicant's advisors will have the opportunity for rebuttal to opposing testimony.

- 4) Quasi-Judicial Items. A quasi-judicial action is an action of the Council which determines the legal rights, duties, or privileges of specific individuals or properties, such as rezones or plat approvals.

The order of business for a quasi-judicial hearing shall generally be as follows:

- (a) Appearance of Fairness Query
  - (b) Swearing in
  - (c) Staff presentation
  - (d) Board or Commission recommendation
  - (e) Applicant 's statement
  - (f) Council's questions of Staff, Commission, and Applicant
  - (g) Citizen 's testimony
  - (h) Rebuttal by Applicant
  - (i) Public testimony closed
  - (j) Council deliberation
  - (k) Council action
- 5) Written Comments. Written materials may be submitted to the Council at the Regular Meeting at which an issue is to be considered, however the Council may not be able

to consider such written comments at that time. Written materials may also be filed with the City Clerk for Council consideration up to and including at the Regular Meeting.

- VII) **Periodic Review:** It is the intent of the City Council that council procedures be periodically reviewed as needed, ~~but no less than every two years. Therefore, Council procedures shall be reviewed in the month of January of every even numbered year,~~ and may be amended at any other time that the Council shall choose.
- VIII) **Effect/Waiver of Rules:** These rules of procedure are adopted for the sole benefit of the members of the Council and the Mayor to assist in the orderly conduct of Council business. These rules of procedure do not grant any right or privileges to specific members of the public. Failure of the City Council to adhere to these rules shall not result in any liability to the City, its officers, agents, and employees, nor shall failure to adhere to these rules result in invalidation of any Council act. The City Council may, by a majority vote, determine to temporarily waive or suspend any of the provisions herein.
- IX) **Repealer:** All prior practices, policies, rules or resolutions of the Council which are inconsistent with this resolution are hereby REPEALED. Resolution No. 2342 is hereby REPEALED for the reason that it is replaced by this resolution.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF MARYSVILLE

By \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_  
JON WALKER, CITY ATTORNEY